

### **REMARKS/ARGUMENTS**

This Response and Amendment is fully responsive to the Office Action mailed October 31, 2007. In the Office Action, claims 1-16 and 22-25 were rejected. By this Response and Amendment, claims 1, 6 and 12-16, 22 and 25 are amended, claims 17-21 and 26-29 are cancelled without prejudice and claims 30-35 are added. No new matter is presented. Applicants reserve the right to present the cancelled claims in a subsequent continuation application.

#### **Examiner Interview**

Applicants thank the Examiners for the interview conducted on January 24, 2008. Examiners Anthony N. Bartosik and Richard Chilcot and attorney Adrian Eggen took part in the interview. The claims were discussed in light of the Lauter reference. The Examiners also indicated that an additional reference, the Hechler reference, is relevant to the claims as originally presented. The Examiners indicated that amending claims 1 and 22 to include a fireplace would overcome the Lauter anticipation rejections.

#### **Claim Amendments**

All claim amendments and additions are supported by the specification as originally filed. The amendments to claims 1 and 22 are supported, for example, at page 5, lines 4-14; at page 5, line 27 through page 6, line 14; and in the accompanying figures. New claims 30 and 33 are supported, for example, by page 11, lines 6-9. New claims 31 and 34 are supported, for example, by page 6, line 5. New claims 32 and 35 are supported, for example, by page 11, lines 4-6.

#### **Claim Objections**

Claim 16 was objected to because of a typographical error. This claim has been amended to correct this error. As such, Applicants respectfully assert that this claim is now in condition for allowance.

### **Rejections Under 35 U.S.C. §112**

Claims 6 and 12-15 were rejected because these claims had insufficient antecedent basis for “the signal module.” Claims 6, 12, 14 and 15 have been amended to address this issue. In addition, claim 13 has been amended to depend on claim 12. As such, Applicants respectfully assert that these claims are now in condition for allowance.

Further, it was asserted that the term “display screen” in claim 3 has insufficient antecedent basis. However, this term does have antecedent basis in claim 3 as originally filed. This claim is reproduced below, with emphasis added:

The system of claim 1, wherein the display monitor is movable between a display position wherein a display screen of the display monitor is viewable, and a retracted position wherein the display screen is not viewable.

As shown in the underlined portions, the term “display screen” is first presented with an indefinite article, and then subsequently with a definite article. As such, this term does have antecedent basis, and Applicants respectfully assert that the claim is in condition for allowance.

### **Rejections Under 35 U.S.C. § 102**

Claims 1, 3-6, 8-16 and 22-25 are rejected under 35 U.S.C. § 102(b) as being anticipated by Lauter et al., U.S. Patent No. 7,055,186 (hereinafter “Lauter”). Without acquiescing to the rejection, in order to expedite prosecution, Applicants have amended claims 1 and 22 to more completely and clearly point out and distinctly claim the features of the present invention. Applicants expressly reserve all rights with respect to the originally-filed claims, including the right to pursue them in future continuation applications.

Specifically, Applicants have amended claims 1 and 22 to include a fireplace. Further, Applicants point out that the term “surround” is a term that is defined in the specification. It is well established that an applicant can be his or her own lexicographer, and as such the definition provided for the term “surround” should be used when interpreting the claim language. Beginning at page 5, line 11, it is stated:

As used herein, the term “surround” means any exposed structural surface that covers at least a portion of the front surface of a heating appliance and provides a transition from the combustible materials surrounding the heating appliance (such as, for example, a stud wall) to the front panel of the heating appliance.

Not only does Lauter not disclose a fireplace, but this reference is also missing a “surround” as defined in the specification. Further, the amended claims also recite specific structure for the surround, and the manner in which the surround interacts with the fireplace. Specifically, the surround has a horizontal member and vertical members, the members together define an internal space that is sized to surround the fireplace, and the surround provides a transition between the support structure and the front panel of the fireplace. As mentioned above, Lauter does not disclose a surround, much less a surround with the specific structure recited in claims 1 and 22. Because Lauter is missing at least these portions of claims 1 and 22, Applicants respectfully assert that claims 1 and 22 cannot be anticipated by this reference.

Further, because they are dependent on claims 1 and 22 and because they recite additional patentably distinct elements, Applicants respectfully assert that claims 3-6, 8-16 and 23-25 are allowable over this reference. Reconsideration and withdrawal of the rejections under 35 U.S.C. § 102 is respectfully requested.

### **§ 103 Rejections**

The Office Action rejected claims 2 and 12-15 under 35 U.S.C. § 103(a) as unpatentable over Lauter. Amended claim 1 recites, in part, a fireplace and a surround, along with specific structure for the surround, as described above with respect to the §102 rejections. Lauter does not teach, suggest, or otherwise provide a fireplace, or a surround as defined by the specification, much less a surround with the structure recited in claim 1. As such, Applicants respectfully assert that claim 1, and claims 2 and 12-15 which depend therefrom, are not obvious in view of Lauter.

The Office Action rejected claim 7 under 35 U.S.C. § 103(a) as unpatentable over Lauter in view of Chang, U.S. Publication No. 2004/0090149. As mentioned above, Lauter does not teach, suggest, or otherwise provide for all elements of claim 1. In addition, Chang

does not teach, suggest, or otherwise provide the elements of claim 1 that are missing from Lauter. As such, Applicants respectfully assert that the combination of Lauter and Chang cannot render claim 1, or claim 7 which depends therefrom, obvious.

### **Newly Presented Claims**

Also, because they are dependent on claims 1 and 22 and because they recite additional patentably distinct elements, Applicants respectfully assert that claims 30-35 are allowable over Lauter and the combination of Lauter and Chang.

### **Additional Reference Discussed During Interview**

Further, during the interview an additional reference was discussed. This reference, Hechler, U.S. Patent No. 5,826,357, describes a smoke-free fireplace with a front panel 11 that is apparently made of brick (see Figure 1 and 2). A mantel 12 is disposed above a hearth opening, a projection TV screen 31 is disposed in front of the front panel of the fireplace above the mantel, a TV projector 32 is placed on the ceiling in front of the fireplace, and speakers 22 are embedded in the front panel of the smoke-free fireplace.

In contrast, claims 1 and 22 recite, in part, a surround, which again is defined in the specification as follows:

As used herein, the term “surround” means any exposed structural surface that covers at least a portion of the front surface of a heating appliance and provides a transition from the combustible materials surrounding the heating appliance (such as, for example, a stud wall) to the front panel of the heating appliance.

Nothing in Hechler discloses a surround as defined in the specification. Hechler does not have a surround that “covers at least a portion of the front surface of a heating appliance and provides a transition from the combustible materials surrounding the heating appliance to the front panel of the heating appliance.”

Further, the pending claims recite specific structure for the surround that is not disclosed in Hechler. For example, claims 1 and 22 recite, in part, that the modular surround comprises a horizontal member defining a top of the surround and vertical members disposed below the horizontal member and defining sides of the surround, the horizontal and vertical

members together defining an internal space that is sized to surround the fireplace, the surround being a modular unit that is disposed between the support structure and the front panel providing a transition between the support structure and the front panel of the fireplace. In claim 1, the display monitor is coupled to the surround and the sound system is positioned at least partially within the surround. In claim 22, the display screen is coupled to the surround and the sound system is positioned at least partially within a recessed portion of the surround.

Rather than disclose a modular surround with electronic elements as recited in claims 1 and 22, Hechler discloses a different type of system in which electronic elements are integrated into the fireplace structure and the ceiling in front of the fireplace. As such, nothing in Hechler teaches, suggests, or otherwise provides a surround with electronic elements, as recited in claims 1 and 22.

In fact, the surround structure of the pending claims provides different capabilities compared to the system described in Hechler. The modular system of claims 1 and 22 is relatively easily installed, and, when electronic equipment may become obsolete or break down, the modular system of claims 1 and 22 also makes it relatively easy to exchange electronic devices or string new wires between electronic devices. In contrast, the system of Hechler is built into the front panel of the fireplace, and does not have the capabilities provided by the claimed modular structures.

Because Hechler does not teach the structures recited in claims 1 and 22, and because the Hechler structures and the claimed modular structures operate differently from one another and have different capabilities, nothing in Hechler teaches, suggests, or otherwise provides the combination of elements recited in claims 1 and 22. Applicants therefore respectfully assert that these independent claims, and the claims which depend therefrom, are novel and nonobvious in view of this reference.

### **Conclusion**


In conclusion, all of the claims remaining in this application are in condition for allowance. Applicants respectfully request the allowance of all pending claims. If there are

any remaining questions, the Examiner is requested to contact the undersigned at the number listed below.

Respectfully submitted,

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